


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT CHARLOTTEVILLE, VA
FILED

APR 22 2005

JOHN F. GORCORAN, CLERK
BY: 
DEPUTY CLERK

ROBERT F. CRIST,

Plaintiff,

v.

THE ROCHESTER CORPORATION,

Defendant,

CASE NO. 3:05CV00017

REPORT AND RECOMMENDATION

By: B. WAUGH CRIGLER
U.S. MAGISTRATE JUDGE

Before the court is plaintiff's April 11, 2005 motion to dismiss voluntarily and without prejudice Count III of its Motion for Judgment under FED. R. CIV. P. 41(a)(2).¹ The defendant having no objection, the undersigned hereby RECOMMENDS that an order enter GRANTING the plaintiff's motion and DISMISSING the claims set forth in Count III in accordance with FED. R. CIV. P. 41(a)(2).

The Clerk is directed immediately to transmit the record in this case to the Hon. James H. Michael, Senior United States District Judge. Both sides are reminded that pursuant to Rule 72(b) they are entitled to note objections, if any they may have, to this Report and Recommendation within ten (10) days hereof. Any adjudication of fact or conclusion of law rendered herein by the undersigned not specifically objected to within the period prescribed by law may become conclusive upon the parties. Failure to file specific objections pursuant to 28 U.S.C. § 636(b)(1)(C) as to factual recitations or findings as well as to the conclusions reached by the undersigned may be construed by any reviewing court as a waiver of such objection.

The Clerk of the Court hereby is directed to transmit a copy of this order to all counsel of record.

ENTERED: 

U.S. Magistrate Judge

4-22-05
Date

¹ This case originally was filed in state court but was removed by the defendant. Plaintiff refers to Count III of his "Motion for Judgment," which will be treated as a "complaint" under the Federal Rules.